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HUMAN RIGHTS COMMITTEE
Seventy-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Syrian Arab Republic

1. The Committee considered the second periodic report of the Syrian Arab Republic (CCPR/C/SYR/2000/2) at its 1916th and 1917th meetings, held on 30 March 2001, and adopted the following concluding observations at its 1924th meeting, held on 5 April 2001.

A. Introduction

2. The Committee has considered the second periodic report of the Syrian Arab Republic. It welcomes the submission of the report, which contains detailed information on Syrian legislation in the area of civil and political rights, and the opportunity to resume the dialogue with the State party after an interval of 24 years. It regrets the considerable delay in submitting the report, which was due in 1984, and the lack of information on the human rights situation in actual fact, which makes it difficult for the Committee to determine whether the State party's population is able fully and effectively to exercise its fundamental rights under the Covenant.

B. Positive aspects

3. The Committee welcomes the information given by the delegation that a large number of political prisoners have been released since the early 1990s and, more recently, in July and November 2000.

4. The Committee has noted evidence of developments within the State party that reflect some relaxation of political restraints that have raised serious questions of gross violations of rights protected by the Covenant.

C. Subjects of concern and recommendations

5. The Committee has noted the status of the Covenant in the State party's internal legal framework. It also takes note of the assurances given by the State party's delegation, without adding further details or citing precise cases, that the Covenant may be directly invoked before the Syrian courts. It notes that the provisions of the Constitution of the Syrian Arab Republic frequently refer to the law. The law, however, rather than being an additional guarantee of the rights and freedoms proclaimed in the Constitution and ensuring that the provisions of the Covenant are given full effect, often tends to restrict the scope of application of the Covenant's provisions.

The State party should review its legislation in order to render it compatible with all the provisions of the Covenant. The Committee wishes to receive from the State party more precise information about the number of cases in which the Covenant was in fact invoked before the Syrian courts.

6. The Committee is concerned at the fact that Legislative Decree No. 51 of 9 March 1963 declaring a state of emergency has remained in force ever since that date, placing the territory of the Syrian Arab Republic under a quasi-permanent state of emergency, thereby jeopardizing the guarantees of article 4 of the Covenant. It also regrets that the delegation did not provide details of the application of the state of emergency in actual situations and cases.

While noting the information given by the State party's delegation that the state of emergency is rarely put into effect, the Committee recommends that it be formally lifted as soon as possible.

7. The Committee notes that the information given by the State party concerning the conditions for proclaiming a state of emergency is still not sufficiently precise. It remains concerned that some of the provisions of the 22 December 1962 Legislative Decree referred to in the report are too vague and imprecise and do not appear to be compatible with the requirements of article 4 of the Covenant, and that the legislation does not provide remedies against measures limiting citizens' fundamental rights and freedoms.

The State party should take appropriate steps to bring its state of emergency legislation fully into line with the requirements of article 4 of the Covenant, and the Committee requests detailed, precise information in this regard.

8. The Committee takes note of the delegation's explanations that the death penalty is rarely imposed and even more rarely carried out. It nevertheless remains seriously concerned at the number of offences punishable by the death penalty and at the absence of any information on the number of death sentences imposed in the past 10 years and the number of executions carried out during the same period. This situation is particularly disturbing in the light of precise, consistent reports alleging that a large number of death sentences have been passed and executions carried out following unfair trials in which the accused were sentenced although evidence was used that had been obtained through confessions which had been made under torture.

The Committee calls upon the State party to ensure respect for articles 6, 7 and 14 (3) (g) of the Covenant and recommends that it reduce the number of offences punishable by the death penalty. The State party should also provide the Committee with statistics on the number of death sentences passed since 1990, the number and identity of persons executed during that period, the dates of execution and the grounds for their sentence.

9. The Committee is concerned that the characterization of some of the political offences referred to in paragraph 60 of the report and punishable by the death penalty is vague and imprecise and includes common law offences.

The State party should make its legislation conform to article 6, paragraph 2, of the Covenant, which provides that sentence of death may be imposed only for the most serious crimes.

10. The Committee is deeply concerned about allegations of extrajudicial executions and disappearances, on which the delegation failed to give sufficient and precise explanations and information. These allegations concern the disappearance of many Syrian nationals and of Lebanese nationals arrested in Lebanon by Syrian forces, then transferred to the Syrian Arab Republic.

The Committee urges the State party to establish an independent commission of inquiry on the above-mentioned disappearances. This commission should publish the results of its investigations within an appropriate time frame, and the State party should ensure that its conclusions are acted upon, including, where applicable, through the indictment of law enforcement personnel identified in the results of such an investigation.

11. The Committee is concerned about the absence of any independent oversight body and of non-governmental organizations in a position to consider the implementation of the human rights guaranteed by the Constitution and governed by law.

The State party should take the necessary measures to arrange for the monitoring of respect for human rights in its territory by an independent agency.

12. The Committee is deeply concerned about constant and duly substantiated allegations of violations of article 7 of the Covenant, to which the delegation did not respond, which are attributed to law enforcement personnel. It notes with concern the many allegations that torture is practised in Syrian prisons, particularly Tadmur military prison.

The State party should ensure that complaints of torture and other abuses committed by agents of the State are considered by an independent body. The State party should institute a system of independent oversight of all detention facilities with a view to preventing all acts of torture and other abuses of power by law enforcement personnel.

13. The Committee takes note of the information provided by the delegation on the conditions of detention in Syrian prisons. It nonetheless remains concerned about the many

allegations of inhumane prison conditions and inadequate medical care in a number of prisons, particularly military prisons, including Tadmur prison.

The State party should take steps to improve prison conditions in the facilities referred to above. It must ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person. The State party must ensure that appropriate and timely medical care is available to all detainees.

14. The Committee is concerned about the number of people held in pre-trial detention, some of whom are in solitary confinement. Hundreds of people have reportedly been arrested and detained without an arrest warrant or indictment, only to be released without judicial procedures having been initiated and, in many cases, after many years in detention.

The State party must ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge (article 9, paragraph 3, of the Covenant). The State party must ensure that all other aspects of its practice are consistent with the provisions of article 9 of the Covenant and that detainees have access to counsel and are permitted to contact their families. The next report should contain precise statistics on the number of people held in pre-trial detention and on the duration of and reasons for such detention.

15. The Committee has noted the delegation's explanations to the effect that the independence and impartiality of the judiciary in the Syrian Arab Republic are fully assured. It nonetheless remains concerned about certain aspects of the appointment of judges which pose problems with regard to article 14, paragraph 1, of the Covenant. This is the case of the four-year renewable term of the members of the Supreme Constitutional Court (article 141 of the Constitution), which, as currently formulated, may compromise their independence *vis-à-vis* the executive branch. The Committee is also concerned that proceedings may be held in camera in circumstances not authorized by article 14, paragraph 1.

The State party should take appropriate measures to ensure and protect, at all levels, the independence and impartiality of the judiciary.

16. In the Committee's view, the procedures of the State Security Court are incompatible with the provisions of article 14, paragraphs 1, 3 and 5. The public nature of proceedings before the State Security Court is not guaranteed. The Committee is also concerned about allegations, to which the delegation did not respond, that the Court has rejected complaints of torture, even in flagrant cases, and that some legal representatives have withdrawn in protest against the failure to respect the rights of the defence. Moreover, the Committee notes that the State Security Court's decisions are not subject to appeal.

The State party should ensure that the procedures of the State Security Court scrupulously respect the provisions of article 14, paragraphs 1 and 3, of the Covenant and should grant accused persons the right to appeal against the Court's decisions (article 14, paragraph 5, of the Covenant).

17. The Committee observes that its questions on the composition and jurisdiction of military courts received summary responses, and notes the delegation's explanation that the procedures of

military courts do not differ from those of civil courts. It nonetheless remains concerned about numerous allegations that the procedures of military courts do not respect the guarantees laid down in article 14 of the Covenant.

The Committee calls upon the State party to provide it with additional information on the composition, the jurisdiction and the procedures of military courts.

18. The Committee notes that, notwithstanding the provisions of article 25 of the Constitution and the explanations given by the delegation in this regard, problems remain with respect to gender equality in the Syrian Arab Republic. In the Committee's view, the Personal Status Act No. 34 of 1975 contains provisions which are not compatible with articles 2, paragraph 1, 3 and 26, of the Covenant. The Committee notes, in particular, that the provisions on the rights and obligations of spouses during marriage and upon its dissolution include discriminatory elements.

The Committee recalls its General Comment No. 28 on equality of rights between men and women, and urgently calls upon the State party to take all necessary measures to make its legislation consistent with articles 2, paragraph 1, 3 and 26, of the Covenant.

19. The Committee notes the absence, in the State party's report, of adequate information and statistical data on the status of women, particularly with regard to employment, remuneration and level of responsibility in both the public and the private sectors.

The State party should provide the Committee with such information and pertinent statistical data in its next periodic report.

20. The minimum marriageable age is 17 years for girls and 18 for boys. The fact that the minimum age can be reduced by a judge to 15 years for boys and 13 for girls with the father's consent poses a problem with regard to the State party's obligation, under article 24, paragraph 1, to protect minors. Marriage at such a young age hardly seems compatible with article 23 of the Covenant, whereby no marriage shall be entered into without the free and full consent of the intending spouses.

The State party should amend its legislation to bring it into line with the provisions of articles 3, 23 and 24 of the Covenant.

21. The Committee notes the promulgation of Ordinance No. 1016 of 13 November 1999, which facilitates the travel, departure and return of citizens. It remains concerned that many Syrians living abroad, as well as their children, have been denied a Syrian passport. This situation, which deprives them of the right to return to their own country, is incompatible with article 12, paragraph 4, the denial of a passport to children of exiled Syrians constitutes a violation of articles 24 and 26 of the Covenant. Moreover, the fact that many designated categories of nationals are still required to obtain an exit visa each time they wish to leave the country is a matter of concern to the Committee and constitutes a violation of article 12, paragraph 2, of the Covenant.

The State party should facilitate the return to the country of Syrian citizens wishing to do so and should eliminate the exit visa requirement as a general rule and require it only in individual cases that can be justified in relation to the Covenant.

22. In the Committee's opinion, the discretionary power of the Minister of the Interior to order the expulsion of any alien, without safeguards, if security and the public interest so require poses problems with regard to article 13 of the Covenant, particularly if the alien entered Syrian territory lawfully and has obtained a residence permit. Protests lodged by the expelled alien with Syrian diplomatic and consular missions abroad are not a satisfactory solution in terms of the Covenant.

Before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant.

23. The Committee remains concerned that the activities of human rights defenders and of journalists who speak out for human rights remain subject to severe restrictions. In this context, it refers to the case of Nizar Nayyuf, who in 1992 was sentenced to 10 years' imprisonment for his non-violent expression of opinions critical of the authorities. Such restrictions are incompatible with freedom of expression and opinion as provided for in article 19 of the Covenant.

The State party should protect human rights defenders and journalists against any restriction on their activities and ensure that journalists can exercise their profession without fear of being brought before the courts and prosecuted for having criticized government policy.

24. The Committee notes the assurance given by the delegation that the provision adopted under article 38 of the Constitution, which subjects the expression of opinions to limitations such as "constructive criticism" and "the integrity of the country and the nation" without establishing precise criteria, has never been applied and may be repealed. It also notes the delegation's statement that the provision of the 1965 legislative decree which makes opposition to the aims of the revolution a political offence has fallen into disuse and has apparently never been applied. The Committee remains nonetheless concerned by numerous allegations it has received in this respect.

The State party should revise its legislation in this particular area.

25. The Committee has noted the delegation's explanation that freedom of assembly is fully respected in Syria. It remains concerned, however, at the restrictions on the holding of public meetings and demonstrations (see articles 335 and 336 of the Penal Code). In the Committee's view, such restrictions exceed those authorized by article 21.

The Committee requests the State party to provide it with additional information on the conditions for authorizing public assemblies and, in particular, to indicate whether and under what conditions the denial of an authorization can be appealed.

26. While noting the explanations provided by the delegation regarding the exercise of the right to freedom of association, the Committee is concerned at the absence of specific legislation on political parties and at the fact that only political parties wishing to participate in the political activities of the National Progressive Front, led by the Baath party, are allowed. The Committee is also concerned at the restrictions that can be placed on the establishment of private associations and institutions (paragraph 307 of the report), including independent non-governmental organizations and human rights organizations.

The State party should ensure that the proposed law on political parties is compatible with the provisions of the Covenant. It should also ensure that the implementation of the Private Associations and Institutions Act No. 93 of 1958 is in full conformity with articles 22 and 25 of the Covenant.

27. The Committee remains concerned about the situation of a large number of persons of Kurdish origin who have entered Syria from neighbouring countries. It is also concerned about the fate of Kurds born in Syria whom the Syrian authorities treat either as aliens or unregistered persons and who encounter administrative and practical difficulties in acquiring Syrian nationality. The Committee considers this discriminatory situation to be incompatible with articles 24, 26 and 27 of the Covenant.

The State party should take urgent steps to find a solution to the statelessness of numerous Kurds in Syria and to allow Kurdish children born in Syria to acquire Syrian nationality.

28. The State party must ensure that its second periodic report and these concluding observations are disseminated widely.

29. The State party should indicate within one year, in accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the measures it has taken or envisages to take to lift the state of emergency (para. 6) and submit the information requested on cases in which the Covenant has actually been invoked before the Syrian courts (para. 5), the number of death sentences passed since 1990, the number and identity of persons executed during that period, the dates of execution and the grounds for their sentence (para. 8). The State party should also submit information on disappeared persons, as well as on the problem of extra-judicial executions (para. 10). Within the same period of one year, it should provide additional information on the composition, the jurisdiction and procedures of military courts (para. 17). It should equally provide information on the measures taken to remedy the situation of statelessness of numerous Kurds in Syria.

The Committee requests that the information relating to its other recommendations and to the Covenant as a whole should be included in the third periodic report of the Syrian Arab Republic, to be submitted by 1 April 2003.